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May 16, 1996

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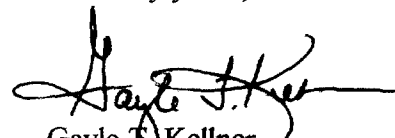
**In Re: Comments - Local Competition Provisions in the
Telecommunications Act of 1996.
FCC 96-182, CC Docket No. 96-98**

Dear Sir:

Enclosed is an original and eleven copies of comments being submitted by the Louisiana Public Service Commission on the above docketed case. As requested, we are sending a copy of these comments to Ms. Janice Myles of the Common Carrier Bureau and the International Transcription Services, Inc.

I would appreciate these comments being filed with your Commission.

Sincerely yours,


Gayle T. Kellner
Senior Staff Attorney

GTK/JSB:tlq

Enclosures

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

**Implementation of Local Competition
Provisions in the Telecommunications Act
of 1996**

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FCC 96-182

CC Docket No. 96-98

**COMMENTS OF THE
LOUISIANA PUBLIC SERVICE COMMISSION**

SUMMARY

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I. OBLIGATIONS IMPOSED BY SECTION 251(c) ON "INCUMBENT LECs"

The Federal Communications Commission, hereinafter referred to as "FCC", seeks comment on whether state commissions are permitted to impose on carriers that have been designated as incumbent local exchange carriers, hereinafter referred to as "ILECs", any of the obligations the Telecommunications Act of 1996, hereinafter referred to as the "1996 Act", imposes on the ILECs. Likewise, the FCC seeks comment on whether imposing on new entrants requirements that the 1996 Act imposes on incumbent LECs would be consistent with the Act's distinction between the obligations of all telecommunications carriers, all LECs and the additional obligations of all incumbent LECs.

Aside from the merits of imposing certain of the incumbent LEC requirements on new entrants in the local telecommunications market, the state commissions are certainly permitted to do so in order to foster the transition from monopoly to competitive local telecommunications market in each state, and to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers while ensuring that the rates charged and services rendered by telecommunications services providers are just

and reasonable.

Thus, in order to foster the transition from monopoly to competitive local telecommunications markets in each state, the state commissions are permitted to impose on carriers that have not been designated as incumbent LECs by the FCC any of the obligations imposed by the Louisiana Public Service Commission, hereinafter referred to as the "LPSC", in its Regulations for Competition in the Local Telecommunications Market, hereinafter referred to as the "Regulations".¹

The FCC seeks comment on the extent to which it should establish national guidelines regarding good faith negotiations under section 251[c][1], and on what the content of those rules should be. As explained more fully below, the LPSC has included in its Regulations specific provisions delineating the terms and conditions upon which resold items shall be made available among the carriers. Thus, the FCC should not establish national guidelines regarding good faith negotiations under section 251[c][1] with regard to resale.

With regard to number portability, as explained more fully below, the LPSC has included in its Regulations specific provisions delineating the terms and conditions upon which the interim number portability solutions of remote call forwarding and direct inward dialing shall be made available among the carriers. Thus, the FCC should not establish national guidelines regarding good faith negotiations under section 251[c][1] with regard to number portability.

Regarding reciprocal compensation, the LPSC's regulations require that all carriers exchange local traffic on a reciprocal basis, under mutual compensation arrangements. Thus, the FCC should not establish national guidelines regarding good faith negotiations under section 251[c][1] with regard to reciprocal compensation.

The FCC also seeks comment on whether existing service interconnection and unbundled

¹Louisiana Public Service Commission Order No.U-20883, Regulations for Competition in f Local Telecommunications Market.

network element agreements that predate the 1996 Act are required to be submitted to state commissions for approval. The FCC also seeks comment on whether one party to an existing agreements may compel renegotiation (and arbitration) in accordance with the procedures set forth in section 252. The LPSC asserts that the 1996 Act requires that these agreement be submitted to the state commissions for approval upon request of the state commission. A party to an existing agreement may not compel renegotiation and arbitration by merely citing the 1996 Act.

The FCC seek comments on a myriad of issues involving interconnection, collocation, unbundling, and resale obligations of ILECs, which issues have been previously addressed and resolved by the LPSC in its Regulations. In its Regulations, the LPSC has adopted a pro-competitive, pro-active approach to ensure that the local loop is open to competitive entry. The LPSC promulgated its Regulations to foster the transition from monopoly to competitive local telecommunications markets in Louisiana. It is the policy of the Commission that all Louisiana consumers should benefit from competition.

In order to aid the FCC promulgate its rules encouraging and promoting competitive entry into the local telecommunications markets in states which have not yet acted to promote competition in the local markets, the LPSC proposes that the FCC use the LPSC's Regulations dealing with interconnection and unbundling as guidelines.

II. OBLIGATIONS IMPOSED ON "LOCAL EXCHANGE CARRIERS" BY 251(b)

The FCC seeks comments on whether, and to what extent, Commercial Mobile Radio Service, hereinafter referred to as "CMRS", should be classified as LECs and the criteria that the FCC should use to make such a determination. The LPSC asserts that the FCC should classify CMRS providers as LECs under the 1996 Act where CMRS is a substitute for land line telephone exchange service for a substantial portion of the communications within a state.

The FCC seeks comments on what types of restrictions on the resale of telecommunications

services would be unreasonable under the 1996 Act. All facilities based Telecommunications Services Providers, hereinafter referred to as "TSPs", should be required to resell their retail services to other TSPs, and there should be no restriction or limitations placed on the resale of facilities based TSPs' retail services with the single exception that resale is of the same class of service and category of customer.

The LPSC agrees with the FCC that service provider local number portability is essential to the development of effective competition in the local telecommunications markets. The costs associated with the development or deployment of a permanent number portability solution, such as a database, or other arrangement, should be recovered from all TSPs using or benefitting from such a solution.

The FCC seeks comment on numerous issues regarding the reciprocal compensation for transport and termination of traffic between carriers. The LPSC offers the Regulations it has established with regard to these issues as model for the FCC to rely when developing its policy under the 1996 Act.

As a final comment the LPSC argues that section 252[d][2][B][I] authorizes states to impose bill and keep arrangements between carriers for call transport and termination. There should be no limitations placed on the states' authority to adopt bill and keep arrangements.

III. DUTIES IMPOSED ON "TELECOMMUNICATIONS CARRIERS" **BY SECTION 251[A]**

The FCC seeks comment on which carriers are included within the definition of a telecommunications carrier pursuant to Section 3 [44] of the 1996 Act.² The LPSC has defined a "telecommunication service provider" as:

²1996 Act, Sec. 3, 3 (44).

a generic term used to refer to any person or entity offering and/or providing telecommunication services for compensation or monetary gain.³

The LPSC's definition of a who should be considered a telecommunications provider is consistent with the FCC's proposed in definition of a telecommunications carriers to be a carrier that is engaged in providing for a fee local, interexchange, or international basic services directly to the public or to such classes of users as to be effectively available directly to the public.

With regards to Section 251[a][1] of the 1996 Act, a duty is imposed on telecommunications carriers to "interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers". The LPSC, has pursuant to Section 301[k] of its Regulations, required non-incumbent facility based LEC's to provide interconnection:

as close as technically possible to the end user or at other locations more efficient, technically or economically feasible to the party requesting interconnection. A cable television system providing telecommunications services as a CLEC [non-incumbent LEC] shall make interconnection available at its head end or at other locations more efficient, technically or economically feasible to the party requesting interconnection.

The LPSC's Regulations provide a non-incumbent LEC some discretion to determine the "technically feasible" point for interconnection of a carrier requesting interconnection as long as that point is "more efficient, technically or economically feasible to the party requesting interconnection."

IV. EXEMPTIONS, SUSPENSIONS, AND MODIFICATIONS

The FCC has sought comment on whether it should establish standards that would assist states in satisfying their obligations under Section 251 (f)(1)(A) and 251 (f)(1)(B) of the act.

³Regulations at sec. 101(42).

Currently under Section 202 of the Regulations Small ILEC's [those with 100,000 access lines or less statewide] are exempted from the provisions and mandates of the Regulations requiring number portability, interconnection, unbundling and resale for a period of three (3) years. A Small ILEC though can lose this exemption if it elects to compete with another local exchange carrier outside of the Small ILEC's historically designated service area. This exemption does not apply to 1+/0+ intraLATA toll dialing parity. Pursuant to LPSC General Order dated April 25, 1996, the LPSC provides a method by which a Small ILEC can petition the LPSC for a suspension or modification of its requirements to provide 1+/0+ intraLATA presubscription. This standard is the same standard as set forth in the 1996 Act.

V. ADVANCED TELECOMMUNICATIONS CAPABILITY

The FCC seeks comment on what measures will promote competition in the local telecommunications market. Section 706(a) of the 1996 Act provides that each state with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including in particular, elementary and secondary schools in classroom) by utilizing in a manner consistent with public interest, convenience and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market or other regulating methods that remove barriers to interstructure investment.

The LPSC has recently enacted Section 701 of its Regulations which provides for a price cap regulatory plan for large ILEC's within the State of Louisiana. Other sections of the Regulations were developed in conjunction with the price cap regulatory plan and which mandate the "opening up" of the local exchange market to competition. These sections require the unbundling of networks and interconnection. It was the intent of the Louisiana Public Service

Commission that all customers in Louisiana would have a greater choice among telecommunications products to choose, whether they lived in the rural areas or the urban areas. Additionally it was the hope that when competitors came to Louisiana, new and innovative services and products, including advanced telecommunications services, would be made accessible to all consumers in Louisiana.

Regarding the provision of advanced telecommunications services to schools, libraries and hospitals, the LPSC, on March 18, 1994 established an educational discount program which was designed to provide a discount to qualifying schools, libraries and government owned hospitals for the installation of and the monthly service charge for ISDN and T1 service.

VI. ARBITRATION

Section 252 sets out procedures for the negotiation, arbitration, and approval of agreements between requesting telecommunications carriers and incumbent local exchange carriers. The section assigns various responsibilities to the State commissions with regard to that process. The Louisiana Public Service Commission has every intention of carrying out its Congressionally delegated responsibilities under Section 252. The Louisiana Commission does not anticipate the occurrence of circumstances under which the FCC would be called upon to assume any portion of Louisiana's responsibilities in accordance with Section 252[e][5]. However, in the event of such an occurrence, it is the opinion of the Louisiana Public Service Commission that the FCC's jurisdiction would be specifically limited to the particular agreement at issue and to the performance of the specific function which was not performed by the State commission with regard to that particular agreement. Further, it is the opinion of the Louisiana Public Service Commission that the FCC would be bound by all of the laws and standards applicable to the State in the event the FCC assumes a portion of the State commission's

responsibilities under Section 252[e][5], so as to avoid inconsistent results. Finally, the Louisiana Public Service Commission submits that interpretation of Congressional provisions within Section 252, including, specifically, the meaning of the words "failure to act" found in Section 252[e][5], is a matter for the courts.

VII. SECTION 252[i]

Any standard established for resolving disputes under section 251[i] should clearly designate that they are to be used only in the event that a state is preempted from exercising its authority pursuant to Section 252[e][5]. Additionally, all telecommunications carriers can avail themselves of any agreement for interconnection, service or network elements. However, these agreement should only be available to third party telecommunications carriers, to the same extent they are available to the original contracting parties.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	FCC 96-182
)	
Implementation of Local Competition)	CC Docket No. 96-98
Provisions in the Telecommunications Act)	
of 1996)	

COMMENTS OF THE
LOUISIANA PUBLIC SERVICE COMMISSION

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

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FCC 96-182

)

**Implementation of Local Competition
Provisions in the Telecommunications Act
of 1996**

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CC Docket No. 96-98

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**COMMENTS OF THE
LOUISIANA PUBLIC SERVICE COMMISSION**

I. INTRODUCTION

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FCC MAIL ROOM

The Louisiana Public Service Commission ("LPSC") hereby submits the following comments in response to the Federal Communications Commission ("FCC") Notice of Proposed Rulemaking ("NPRM") in the above captioned case issued on April 19, 1996.⁴ This NPRM was issued in order to implement the local competition provision of the Telecommunications Act of 1996.⁵ A diligent effort has been undertaken in presenting these comments to be brief and concise. If additional information is needed regarding any area discussed, the LPSC is willing to furnish the information to any and all parties concerned.

⁴*In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Notice of Proposed Rulemaking, FCC 96-182 (Adopted April 19, 1996 and Released April 19, 1996).

⁵Telecommunications Act of 1996, Pub.L.No.104-104, 110 State. 56 (1996) (to be codified at 47 U.S.C. 151 et Seq.). Hereinafter, the provision of the 1996 Act will be referred to using the section at which they will be codified.

II. OBLIGATIONS IMPOSED BY SECTION 251(c) ON INCUMBENT LECs

The FCC seeks comment on whether state commissions are permitted to impose on carriers that have not been designated as incumbent LECs any of the obligations the 1996 Act imposes on incumbent LECs. Likewise, the FCC seeks comment on whether imposing on new entrants requirements that the 1996 Act imposes on incumbent LECs would be consistent with the Act's distinction between the obligations of all telecommunications carriers, all LECs and the additional obligations of all incumbent LECs.

Aside from the merits of imposing certain of the incumbent LEC requirements on new entrants in the local telecommunications market, the state commissions are certainly permitted to do so in order to foster the transition from monopoly to competitive local telecommunications markets in each state, and to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers while ensuring that the rates charged and services rendered by telecommunications services providers are just and reasonable.

In furtherance of these goals the LPSC has required in its Regulations for Competition in the Local Telecommunications Markets (the "Regulations") that all telecommunications services providers ("TSPs") apply to (except providers of CMRS), register and file tariffs with the LPSC before provisioning services within the state. Additionally, TSPs are prohibited from engaging in unreasonable price discrimination, predatory pricing, price squeezing, or tying arrangements with respect to other TSPs and end users. Moreover, as required by the LPSC, TSPs will participate in and contribute to a Universal Service Fund.

In addition to the conditions and obligations applicable to all TSPs set forth above, the LPSC requires that all TSPs designated by the Commission as competitive local exchange carriers ("CLECs") comply with the following additional conditions and obligations:

1. Upon request a CLEC shall provide to any customer in its certificated area basic local service, and shall render adequate service within its certificated area. This does not relieve an ILEC from its obligations to subscribers arising from its status as the Essential Telecommunications Carrier.
2. Within ninety (90) days of receipt of a bona fide request, a facilities-based CLEC shall provide interconnection as close as technically possible to the end user or at other locations more efficient, technically or economically feasible to the party requesting interconnection. A cable television system providing telecommunications services as a CLEC shall make interconnection available at its headend or at other locations more efficient, technically or economically feasible to the party requesting interconnection.
3. A facilities-based CLEC shall make all telecommunications service offerings on its facilities available for resale within the same class of service without unreasonable discrimination.
4. A CLEC shall charge non-discriminatory switched access rates which do not exceed the intrastate switched access rates of the competing ILEC in each of the CLEC's certificated areas.
5. All CLECs shall charge non-discriminatory interconnection rates.
6. All CLECs shall provide all customers equal access presubscription to their long distance carrier of choice as provided by Commission Orders.
7. Upon request a CLEC shall provide, either on its own facilities or through resale, service in accordance with its tariffs to all customers in the same service classification in its certificated areas.

Additionally, the LPSC requires all TSPs providing local telecommunications services to reciprocally provide number portability that ensures that an end-user customer of local telecommunications services, while at the same location, shall be able to retain an existing telephone number without impairing the quality, reliability, or convenience of service when changing from one

provider of local telecommunications services to another.

As an interim measure to accomplish this number portability, the LPSC has mandated that ILECs and CLECs provide remote call forwarding and direct inward dialing to each other at reasonable, cost-based prices. Moreover, the LPSC requires that all TSPs cooperate and use their best efforts to design, develop and deploy number portability databases, associated connections and/or other arrangements to achieve a permanent portability solution. The LPSC has mandated that the costs associated with the development and deployment of a permanent number portability solution be recovered from all TSPs using or benefitting from such a solution.

Specifically with regard to interconnection, the LPSC requires that all competing networks be interconnected so that customers can seamlessly receive calls that originate on another carrier's network and place calls that terminate on another carrier's network without dialing extra digits, paying extra, or doing any other such action out of the ordinary that is not required when dialing on his/her own carrier's ILEC or CLEC network. This interconnection includes access to switches, databases, signaling systems and other facilities or information associated with originating and terminating communications.

The LPSC requires that physical interconnect charges between and among TSPs be tariffed and based on cost information derived from Long Run incremental Cost, hereinafter referred to as "LRIC", and Total Service Long Run Incremental Cost, hereinafter referred to as "TSLRIC", studies.

Based on current traffic and market conditions in the CMRS industry, the LPSC has decided that mandatory CMRS-to-CMRS interconnection is not required by its interconnection obligations discussed above. However, providers of CMRS and Private Mobile Radio Service, hereinafter referred to as "PMRS", are encouraged to develop interconnection arrangements among themselves and with other TSPs which foster the Commission policy of promoting the interconnection of

competing networks so that customers can seamlessly receive and place calls originating and terminating on other carriers' networks.

The LPSC requires that all carriers exchange local traffic on a reciprocal basis, under mutual compensation arrangements. That is, TSPs shall pay the same rate to each other for the termination of local calls on the other's network. Moreover, TSPs are required to enter into reciprocal, mutual billing and collection agreements which ensure that each TSP can accept other TSPs' telephone line numbers based on nonproprietary calling cards; and, ensures that each TSP can bill and collect on collect calls and on calls billed to a third number served by another TSP.

The LPSC also requires that all TSPs be afforded nondiscriminatory access to each other's data bases as follows:

1. **Directory Assistance and Line Information databases** - TSPs shall be permitted to input their customers' telephone numbers and any pertinent account data into the ILEC directory assistance and line information databases. TSPs shall also be permitted to access any customer's number from the TSP directory assistance and line information databases in order to provide directory assistance service to its customers or to obtain billing name and address.
2. **Public Interest Services** - TSPs shall have equal access to provide their customer numbers and address information to 911 providers, whether these providers are the ILEC or independent service bureaus.
3. **TSP Service Databases** - TSPs shall be provided access to TSP service databases (e.g., 800, line information, AIN) through signaling interconnection, with functionality, quality, terms, and conditions equal to that provided by the TSP to itself and its affiliates. TSPs will be charged tariffed rates for database queries equal to that charged to interexchange carriers for the same functions. The TSPs will impute the tariffed rates of database access to its services.
4. **No TSP shall access the customer proprietary network information ("CPNI")** of another interconnecting TSP for the purpose of marketing its services to the interconnecting company's customers. Likewise, no TSP shall access the CPNI of a company reselling its services, without permission of the reseller, for the purpose of marketing services to the reseller's customers.

Specifically with regard to unbundling of network elements, the LPSC requires that all TSPs be able to purchase desired features, functions, capabilities and services promptly and on an unbundled and non-discriminatory basis from all other TSPs provisioning services within the State. All TSPs must allow nondiscriminatory access to their poles by other TSPs for pole attachments, and all TSPs must allow nondiscriminatory access to their conduits and rights-of-way by other TSPs for the provisioning of local telecommunications service.

Specifically with regard to resale, all facilities based TSPs must make unbundled retail features, functions, capabilities and services, and bundled retail services available for resale to other TSPs. The LPSC mandates that no facilities based TSP may impose any restrictions on the resale of its unbundled retail features, functions, capabilities and services, and bundled retail services provided that resale is of the same class of service and category of customer. All TSPs must revise their existing tariffs to remove any prohibitions on the resale of unbundled retail features, functions, capabilities and services, and bundled retail services.

Thus, in order to foster the transition from monopoly to competitive local telecommunications markets in each state, and to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers while ensuring that the rates charged and services rendered by telecommunications services providers are just and reasonable, the state commissions are permitted to impose on carriers that have not been designated as incumbent LECs by the FCC any of the obligations imposed by the LPSC in its Regulations.

The FCC seeks comment on the extent to which it should establish national guidelines regarding good faith negotiations under section 251[c][1], and on what the content of those rules should be.

As detailed above, the LPSC has mandated that all facilities based carriers, including the ILECs, make unbundled retail features, functions, capabilities and services, and bundled retail services available for resale to other TSPs. The LPSC mandates that no facilities based TSP may impose any restrictions on the resale of its unbundled retail features, functions, capabilities and services, and bundled retail services provided that resale is of the same class of service and category of customer. As explained more fully below, the LPSC has included in its Regulations specific provisions delineating the terms and conditions upon which resold items shall be made available among the carriers. Thus, the FCC should not establish national guidelines regarding good faith negotiations under section 251[c][1] with regard to resale.

With regard to number portability, the LPSC has mandated in its Regulations that all TSPs providing local telecommunications services reciprocally provide number portability that ensures that an end-user customer of local telecommunications services, while at the same location, are able to retain an existing telephone number without impairing the quality, reliability, or convenience of service when changing from one provider of local telecommunications services to another. As explained more fully below, the LPSC has included in its Regulations specific provisions delineating the terms and conditions upon which the interim number portability solutions of remote call forwarding and direct inward dialing shall be made available among the carriers. Thus, the FCC should not establish national guidelines regarding good faith negotiations under section 251[c][1] with regard to number portability.

Regarding reciprocal compensation, the LPSC's Regulations require that all carriers exchange local traffic on a reciprocal basis, under mutual compensation arrangements. That is, TSPs shall pay the same rate to each other for the termination of local calls on the other's network. The Regulations specifically provide that this rate will equal the intrastate switched access service rate - less the residual

interconnection charge and the carrier common line charge - on a per minute basis.

Furthermore, the Regulations provide that no ILEC or CLEC shall pay any other ILEC or CLEC for more than 110% of the minutes of use of the provider with the lower minutes of use in the same month. Such an arrangement avoids significant payment differences due to a traffic imbalance. Moreover, TSPs are required to enter into reciprocal, mutual billing and collection agreements which ensure that each TSP can accept other TSPs' telephone line numbers based on nonproprietary calling cards and that each TSP can bill and collect on collect calls and on calls billed to a third number served by another TSP. Therefore, the FCC should not establish national guidelines regarding good faith negotiations under section 251[c][1] with regard to reciprocal compensation.

The FCC also seeks comment on whether existing service interconnection and unbundled network element agreements that predate the 1996 Act are required to be submitted to state commissions for approval. The FCC also seeks comment on whether one party to an existing agreement may compel renegotiation (and arbitration) in accordance with the procedures set forth in section 252. The LPSC asserts that the 1996 Act requires that these agreements be submitted to the state commissions for approval upon request of the state commission. A party to an existing agreement may not compel renegotiation and arbitration by merely citing the 1996 Act.

The FCC also seeks comments on a myriad of issues previously addressed and resolved by the LPSC in its Regulations for Competition in the Local Telecommunications Market. The FCC also encourages parties to submit information regarding the approaches taken by states that have allowed interconnection. Louisiana is one of those states. In its Regulations, the LPSC has adopted a pro-competitive, pro-active approach to ensure that local loop is open to competitive entry. The LPSC promulgated its Regulations to foster the transition from monopoly to competitive local telecommunications markets in Louisiana. It is the policy of the Commission that all Louisiana

consumers should benefit from competition.

The Regulations are designed to ensure that Louisiana consumers in the aggregate benefit from competition. The LPSC granted telecommunications services providers the opportunity to compete in local telecommunications markets under the condition that the consumers of Louisiana benefit by having greater choices among telecommunications products, prices and providers. Through the development of effective competition, which promotes the accessibility of new and innovative services at non-discriminatory prices consumers can and are willing to pay, and which results in wider deployment of existing services at competitive prices, the public interest will be promoted.

With regard to each of the above listed topics to which the FCC seeks comment, the LPSC, through its Regulations, has addressed and established policy for the State of Louisiana. The Regulations require that all facilities based TSPs interconnect with each other at cost-based rates in order to ensure that customers of different carriers can seamlessly receive and terminate calls which originate on another network. In order to aid the FCC to promulgate its rules which encourage and promote competitive entry into the local telecommunications markets in states which have not yet acted to promote competition in the local markets, the LPSC proposes that the FCC use the LPSC's Regulations dealing with interconnection and unbundling as guidelines.

III. OBLIGATIONS IMPOSED ON "LOCAL EXCHANGE CARRIERS" **BY SECTION 251(b)**

The FCC seeks comments on whether, and to what extent, CMRS providers should be classified as LECs and the criteria that the FCC should use to make such a determination.

The LPSC asserts that the FCC should classify CMRS providers as LECs under the 1996 Act where CMRS is a substitute for land line telephone exchange service for a substantial portion of the

communications within a state.

The FCC seeks comment on what types of restrictions on resale of telecommunications services would be unreasonable under the 1996 Act. To encourage and promote competition in the local telecommunications markets, the LPSC, in its Regulations, has mandated that all facilities based TSPs (including ILECs, CLECs and CMRS providers) make unbundled retail features, functions, capabilities and services, and bundled retail services available for resale to other TSPs. Further, no facilities based TSP may impose any restrictions on the resale of its unbundled retail features, functions, capabilities and services, and bundled retail services provided that resale is of the same class of service and category of customer. Thus, all facilities based TSPs should be required to resell their retail services to other TSPs, and there should be no restrictions or limitations placed on the resale of facilities based TSPs' retail services with the single exception of the service category restriction noted above.

To aid the FCC in developing rules with regard to resale, the LPSC offers its Regulations dealing with resale as a guideline, to wit:

"SECTION 1101. Resale

"A. To encourage and promote competition in the local telecommunications markets, all facilities based TSPs shall make unbundled retail features, functions, capabilities and services, and bundled retail services available for resale to other TSPs.

B. No facilities based TSP may impose any restrictions on the resale of its unbundled retail features, functions, capabilities and services, and bundled retail services provided that resale is of the same class of service and category of customer.

C. TSPs shall revise their existing tariffs to remove any prohibitions on the resale of unbundled retail features, functions, capabilities and services, and bundled retail services within thirty (30) days of the effective date of these Regulations. TSPs filing initial tariffs shall not include in such tariffs any prohibitions on resale of unbundled retail features, functions, capabilities and services, and bundled retail services.

D. During the transition to a competitive local telecommunications market, ILEC unbundled retail features, functions, capabilities and services, and bundled retail services, including vertical features, shall be tariffed and provided to other TSPs at reasonable wholesale rates based on cost information. The cost information shall be derived from the cost studies mandated in Section 901.C.2 above. These studies shall be provided to the Commission in accordance with the provisions of Section 901.C.2. This information will be used by the Commission to determine the ILEC's tariffed wholesale resale rates. There is no mandate that resold services be provided by the ILEC to TSPs at its TSLRIC or LRIC of providing such services.

E. As of the effective date of these Regulations, and as an interim measure until the tariffed wholesale resale rates are developed pursuant to subsection D above, the wholesale resale rates of an ILEC shall be the ILEC's current tariffed retail rates reduced by 10% to encourage and promote competition in the local telecommunications markets, and to reflect the ILEC's avoidance of retail costs, including but not limited to, sales, marketing and customer services associated with the resold items. ILEC services currently tariffed and provisioned below cost shall be available for wholesale resale in the manner described above. If deemed necessary by the Commission to ensure universal service, a subsidy mechanism may be established in Subdocket A of Docket U-20883, which would be available to an ILEC reselling services shown to be provisioned below cost for public interest purposes.

F. An ILEC shall make available non-discriminatory online access to the ILEC's operating systems at a reasonable cost-based charge per database dip to TSPs that desire to resell ILEC features, functions, capabilities and services. This access shall be made available according to the following guidelines: 1) within sixty (60) days of receipt of a bona fide request, the ILEC shall make the requested access available at a reasonable cost-based charge agreed to between the parties, or 2) if within sixty (60) days of receipt of a bona fide request, an agreement is not reached between the parties, or the ILEC responds that the request is not technically and/or economically feasible to provide, the matter will be resolved by the Commission upon petition of either party. As part of the Commission's review of the matter, the ILEC shall provide TSLRIC and LRIC studies to the Commission which show the cost of providing the requested access, including a detailed explanation of why the requested access is not technically or economically feasible to provide the requesting TSP.

G. Access shall be available to the following:

1. Direct, on-line access to the ILECs' mechanized order entry system. Access shall be considered adequate when the provided access permits the reseller to access an ILEC's mechanized order entry system to place initial orders, access information concerning service and feature availability, modify orders previously entered, schedule the installation of services and any necessary equipment, and to check on the status of all transactions that the reseller has initiated in a manner at least as efficient as the access provided the ILEC's own employees.

2. On-line access to numbering administration systems and to numbering

resources.

3. Direct on-line access to the ILECs' trouble reporting and monitoring systems. Access is considered adequate if reseller can directly access remote line testing facilities, report service problems, schedule premise visits where required, and check the status of repairs. Arrangement must also provide for interception and automatic forwarding of repair calls placed by reseller customers to the reseller.

4. Customer usage data. Resellers must be provided timely on-line and printed reports pertaining to the Reseller's customers usage of ILEC local calling and switched access services.

5. To local listing databases and updates. Resellers should be able to add, modify and delete directory listings for the Reseller's customers via on-line access to the ILEC's directory database, and new reseller customers' listings should be available from Directory Assistance on precisely the same basis and in the same time frame as applies for new ILEC retail subscribers.

This access shall equal that provided to the ILECs' own personnel. The Commission and its Staff will monitor the progress, or lack thereof, made in this area, and, if deemed necessary after notice and hearing, will impose an additional transitional resale discount on an ILEC's features, functions, capabilities and services until an ILEC's operating systems are accessible by TSPs on the terms specified herein.

H. No TSP shall access the customer proprietary network information ("CPNI") of another interconnecting TSP for the purpose of marketing its services to the interconnecting company's customers. Likewise, no TSP shall access the CPNI of a company reselling its services, without permission of the reseller, for the purpose of marketing services to the reseller's customers.

I. All ILECs shall offer an optional, unbundled version of their retail services that allows the reseller to use its own operator services and directory assistance services.

J. All ILECs shall offer these resold services to the resellers as "unbranded" services.

"SECTION 901. Interconnection

"A. Interconnection of the local telephone networks at reasonable rates is essential to local telephone competition. Competing networks shall be interconnected so that customers can seamlessly receive calls that originate on another carrier's network and place calls that terminate on another carrier's network without dialing extra digits, paying extra, or doing any other such action out of the ordinary that is not required when dialing on his/her own carrier's ILEC or CLEC network. TSPs should be interconnected with the ILECs in a manner that gives the TSPs seamless integration into and use of local telephone company signaling and

interoffice networks in a manner equivalent to that of the ILECs. Interconnection shall include access to switches, databases, signaling systems and other facilities or information associated with originating and terminating communications.

B. Based on current traffic and market conditions in the CMRS industry, mandatory CMRS-to-CMRS interconnection is not required by the interconnection obligations of this Section (901). However, providers of CMRS and PMRS are encouraged to develop interconnection arrangements among themselves and with other TSPs which foster the Commission policy of promoting the interconnection of competing networks so that customers can seamlessly receive and place calls originating and terminating on other carriers' networks.

C. Physical Interconnection for purposes of utilizing unbundled basic network components of ILEC networks:

1. Physical interconnect charges between and among TSPs shall be tariffed and based on cost information. The cost information derived from both TSLRIC and LRIC studies shall be provided to the Commission. This information will be used by the Commission to determine a reasonable tariffed rate. There is no mandate that interconnection services be provided by the ILEC to TSPs at its TSLRIC or LRIC of providing such services.

2. ILECs must conduct within ninety (90) days from the effective date of these Regulations the TSLRIC and LRIC studies on all basic network service components and file such studies with the Commission. Basic network components shall include, without limitation, network access, switching and switch functions, transport (dedicated and switched) and ancillary services.⁶

3. Physical interconnection tariffs shall be filed in accordance with Section 401.

D. Exchange of local traffic between competing carriers shall be reciprocal and compensation arrangements for such exchange shall be mutual. That is, TSPs shall pay the same rate to each other for the termination of calls on the other's network. This rate will equal the intrastate switched access service rate - less the residual interconnection charge and the carrier common line charge - on a per minute basis.

E. No ILEC or CLEC shall pay any other ILEC or CLEC for more than 110% of the minutes of use of the provider with the lower minutes of use in the same month. For example, if TSP number one has 10,000 minutes of local traffic terminated on TSP number two's network, and TSP number two has 15,000 minutes of local traffic terminated on TSP number one's network, TSP number two will compensate TSP number one on the basis of 11,000 minutes (10,000 minutes x 110%). Such an arrangement avoids significant payment differences due to a traffic

⁶Re A Methodology to Determine Long Run Incremental Cost, 156 PUR 4th 1, Michigan Public Service Commission, Case No. U-10620, September 8, 1994.

imbalance.

F. ILECs and CLECs shall file reports with the Commission Secretary on April 1st of each year which show by month the volume of local terminating traffic delivered to ILECs or CLECs during the previous year.

G. Interconnections arrangements established pursuant to Commission Docket No. U-18976 shall remain in effect until January 1, 1999, unless otherwise modified by the Commission.

H. TSPs shall be required to enter into reciprocal, mutual billing and collection agreements which ensure that each TSP can accept other TSPs' telephone line numbers based on nonproprietary calling cards; and, ensures that each TSP can bill and collect on collect calls and on calls billed to a third number served by another TSP.

I. The ILECs shall not limit the ability of a TSP to provide and carry operator services traffic.

J. CLECs shall have access to 911 connectivity where provided by an ILEC under the same terms and conditions enjoyed by the ILEC.

K. TSPs shall be afforded nondiscriminatory access to each other's data bases as follows:

1. Directory Assistance and Line Information databases - TSPs shall be permitted to input their customers' telephone numbers and any pertinent account data into the ILEC directory assistance and line information databases. TSPs shall also be permitted to access any customer's number from the TSP directory assistance and line information databases in order to provide directory assistance service to its customers or to obtain billing name and address.

2. Public Interest Services - TSPs shall have equal access to provide their customer numbers and address information to 911 providers, whether these providers are the ILEC or independent service bureaus.

3. TSP Service Databases - TSPs shall be provided access to TSP service databases (e.g., 800, line information, AIN) through signaling interconnection, with functionality, quality, terms, and conditions equal to that provided by the TSP to itself and its affiliates. TSPs will be charged tariffed rates for database queries equal to that charged to interexchange carriers for the same functions. The TSPs will impute the tariffed rates of database access to its services.

4. No TSP shall access the customer proprietary network information ("CPNI") of another interconnecting TSP for the purpose of marketing its services to the interconnecting company's customers. Likewise, no TSP shall access the CPNI of a company reselling its services, without permission of the reseller, for the purpose of marketing services to the reseller's customers.

L. TSPs shall develop mutually agreeable and reciprocal arrangements for the protection of their respective customer proprietary network information.

M. Nothing in this Section (901) shall be construed as authorizing the concentration of access lines in contravention of the prohibitions contained in Commission Orders U-16462 and U-17957-C.

N. All TSPs holding a certificate from the Commission are prohibited from providing interconnection services to non-certificated TSPs, unless the non-certificated TSP is exempt from the Commission's certification requirements pursuant to state or federal law or explicit Commission order."

"SECTION 1001. Unbundling

"A. All TSPs shall be able to purchase desired features, functions, capabilities and services promptly and on an unbundled and non-discriminatory basis from all other TSPs provisioning services within the State.

B. Unless exempted pursuant to Section 202 above, an ILEC shall provide unbundled loops, ports, signaling links, signal transfer points, and signaling control points to a requesting TSP upon the effective date of these Regulations.

C. Unless exempted pursuant to Section 202 above, after the effective date of these Regulations, an ILEC shall provide additional unbundling within ninety (90) days of receipt of a bona fide request from a TSP. Additional unbundled basic network components shall include, but not be limited to:

- 1. Logical components within the loop plant, including loop distribution, loop concentration, and loop feeder.**
- 2. End office and tandem switching.**
- 3. Operator systems.**
- 4. Common and dedicated transport links.**

D. TSPs shall be able to interconnect with all unbundled basic network components at any technically feasible point within an ILEC's network. Access, use and interconnection of all basic network components shall be on terms and conditions identical to those an ILEC provides to itself and its affiliates for the provision of exchange, exchange access, intraLATA toll and other ILEC services.

E. As specified in Section 901 above, rates for utilizing unbundled basic network components of ILEC networks and interconnection thereto shall be tarified and based on cost information. There is no mandate that unbundled elements be provided by the ILEC to TSPs at